

EXHIBIT Q

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND
SOUTHERN DISTRICT

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JEREMY HUNT, et al., :
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 Plaintiffs, : Civil No. 18-02485-PX
 :
 :
 v. :
 :
 :
 ALDI, INC., :
 :
 :
 Defendant. : Greenbelt, Maryland
 :
 ----- x April 4, 2019

ORIGINAL

TELEPHONE CONFERENCE

BEFORE: THE HONORABLE PAULA XINIS, Judge

APPEARANCES:

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1 that being said --

2 THE COURT: I mean, I think the plain language of
3 19307.3 references advertising on the outside of the
4 envelope. I have not received to supplement. So obviously
5 looking at the letter, it was very concerning. I know as a
6 common practice the letters often do say advertising as well
7 for this very reason. Because --- separated her letters and
8 that this letter is -- I got to tell you it is troubling to
9 me because it does in sum and substance constitute and end
10 run around the opt in process.

11 When -- you are telling me that if they sign here,
12 they are authorizing consent of the filing and prosecution of
13 the FLSA action in their name and on behalf of all persons
14 similarly situated. That is ultimately going to be my call.
15 And --

16 MR. SWEGMAN: Yes, it is.

17 THE COURT: -- yes, so you -- these letters
18 basically ask for someone to sign and sign up potentially
19 without ever having spoken to anyone about this case, which
20 is the second problem? So I am not quite sure whether --
21 well let me say this, you don't yet have because you have
22 said they are advertising, you do not have an attorney client
23 relationship with the individuals in the first instance?
24 These are folks who you are soliciting to sign up.

25 MR. SWEGMAN: That is correct.

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1 is relevant in discovery or on conditional certifications
2 doesn't mean that I am going to buy the defendant's argument
3 in the end. So let me say that.

4 MR. SWEGMAN: Okay and I understand --

5 THE COURT: Yes, their smaller point though or
6 their secondary point which is it is relevant to conditional
7 certification, I do credit. That is -- at least that is
8 where I am right now. You haven't convinced me otherwise.

9 MR. SWEGMAN: Okay. Well, I would submit under the
10 circumstances that the -- I am not sure quite frankly where
11 the burden would lie in terms of convincing but I am --

12 THE COURT: Well, the defense --

13 MR. SWEGMAN: -- somewhere --

14 (Whereupon, both parties are speaking simultaneously.)

15 THE COURT: -- the defendants have asked for it and
16 you have objected, if I understand it right, your initial
17 objection was attorney client privilege which not on the
18 table anymore. Your second objection is it doesn't -- it is
19 not relevant and to the extent that I don't credit your
20 arguments, it is your burden because this is all about --
21 here is the thing is, the big elephant in the room is this is
22 all about conditional certification of a particular class and
23 you have already sent out one solicitation which basically
24 does in the end run around the very process that we are
25 engaging in.

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1 MR. SWEGMAN: Your Honor?

2 THE COURT: Yes?

3 MR. SWEGMAN: George Swegman again. Let me just
4 propose this. It sounds as if the concerns might be met by
5 letting defendants know all of the people who responded to
6 this particular letter. Now there was --

7 THE COURT: No, that doesn't -- nope, I am not
8 persuaded. I have to tell you this -- a response is not
9 meeting the question at hand. Document request number 1
10 requests "All documents concerning your communications with
11 those who you contend are similarity situated to you, this
12 specifically includes but is not limited to communications
13 like the one attached at Exhibit A, that your attorney sent
14 on your behalf in this case."

15 I am going to grant that request. You have to
16 disclose not only A but any other similar letters. Those
17 would be the documents concerning communication. Then with
18 regards to interrogatory number 4, "Identify all persons to
19 whom communications about this lawsuit have been sent by you,
20 which includes by your counsel" and --

21 MR. SWEGMAN: Right.

22 THE COURT: -- that again is at A or any
23 communication like A. And that includes social media which
24 would be your website except I can't find any evidence that
25 on the --

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1 MR. SWEGMAN: Exactly. And I will --

2 THE COURT: --- and you all have to get to the
3 bottom of that. So in sum and substance, I am going to grant
4 the -- I am going to say that you have to comply with the
5 ROG(sic) and the RTD. We do this in lieu of formal motions
6 to compel to keep down the costs.

7 MR. SWEGMAN: I understand that.

8 THE COURT: So --

9 MR. SWEGMAN: Let me just get clarification. They
10 are asking for the identity, will that include the address of
11 the persons that were on the list of this mailing?

12 THE COURT: Well, I do think it is -- yes.

13 MR. SWEGMAN: Okay, so there is address --

14 THE COURT: Because I mean, frankly these are all
15 the employees in any event --

16 MR. SWEGMAN: Yes.

17 THE COURT: -- so the extent that --

18 MR. SWEGMAN: Well, no -- I just so that you are
19 certain where everything is, some of them are ALDI employees.
20 Some of them were ALDI employees but are no longer ALDI
21 employees and that is true of most of the plaintiffs, the
22 named plaintiffs in the case. And as I am sure you are
23 aware, people who still work for the company are generally
24 reluctant to get involved in something like this for reasons
25 that are apparent to everyone. But I will provide names and